



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: February 27, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012948

[REDACTED]

Dear [REDACTED]

On January 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 19, 2016 eligibility determination notice and November 1, 2016 enrollment confirmation notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the NY State of Health Account ID at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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## Decision

Decision Date: February 27, 2017

NY State of Health Account ID: [REDACTED]  
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## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine that your eligibility for the Essential Plan ended effective October 31, 2016?

Did NYSOH properly determine that your re-enrollment in the Essential Plan was effective December 1, 2016?

## Procedural History

On May 12, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective June 1, 2016. The notice further directed you to provide documentation confirming your income before August 9, 2016, or you might lose your eligibility to enroll in a plan or to receive financial assistance.

Also on May 12, 2016, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective June 1, 2016.

No documents were submitted by August 9, 2016, and on September 18, 2016, NYSOH redetermined your eligibility.

On September 19, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost. The notice stated that you were not eligible to enroll in the Essential Plan because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective November 1, 2016.

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Also on September 19, 2016, NYSOH issued a disenrollment notice stating that your enrollment in the Essential Plan would end as of October 31, 2016, because you were no longer eligible to remain in your plan.

On October 31, 2016 you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to enroll in the Essential Plan for a limited time, and you selected a plan for enrollment.

Also on October 31, 2016 you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan for the month of November 2016.

On November 1, 2016, NYSOH issued a notice of eligibility determination, based on your October 31, 2016 application, stating that you were eligible to enroll in the Essential Plan for a limited time, effective December 1, 2016. The notice stated that you must provide proof of income by January 29, 2017, or you might lose your eligibility to enroll in a plan or to receive financial assistance

Also on November 1, 2016, NYSOH issue a notice of enrollment confirmation, based on your plan selection on October 31, 2016, stating that you were enrolled in an Essential Plan effective December 1, 2016.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You testified, and your application indicates, that you receive all of your notices from NYSOH by regular mail.
- 2) You testified that you did not receive any notices stating that your eligibility was only conditional and that you needed to provide documentation of your household's income.
- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 4) You testified that you did not know that you needed to submit documentation of your income until October 2016.
- 5) Your NYSOH account indicates that on September 18, 2016, your eligibility was redetermined and you were found no longer eligible for the Essential Plan as of November 1, 2016.
- 6) You updated the income information in your NYSOH account on October 31, 2016.

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- 7) You testified that you are seeking enrollment in your Essential Plan as of November 1, 2016.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Verification of Eligibility for the Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan (a basic health plan) if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

NYSOH must verify the eligibility of an applicant for the Essential Plan consistent with the standards set in 45 CFR § 155.315 and § 155.320 (New York's Basic Health Plan Blueprint, pgs. 16-17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>; 42 CFR § 600.345(a)(2)).

An applicant is required to attest to their household's projected annual income. (45 CFR § 155.320(c)(3)(ii)(B)). For all individuals whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security in order to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant in order to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant

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demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any updates in eligibility to the Essential Plan effective the first day of the following month for changes received by NYSOH from the first to the fifteenth of any month (45 CFR § 155.420(b)(1)(i); *see also* 42 CFR § 600.320(c)). For updates received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR § 155.420(b)(1)(ii); *see also* 42 CFR § 600.320(c)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your eligibility for the Essential Plan ended effective October 31, 2016.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household's projected annual income. For individuals seeking enrollment in the Essential Plan, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on May 12, 2016, you were advised that you were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before August 9, 2016.

You testified that you did not receive any notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. However, you testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail, and there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation.

Accordingly, your eligibility for the Essential Plan ended effective October 31, 2016 because you did not submit documentation and did not adequately demonstrate that you could not provide documentation to confirm your income.

Therefore, the September 19, 2016 eligibility determination notice is AFFIRMED.

The second issue is whether NYSOH properly determined that your eligibility for and enrollment in the Essential Plan was effective December 1, 2016.

You testified, and your account confirms, that you updated your NYSOH application on October 31, 2016. That day you selected an Essential Plan for enrollment.

The date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

Since on October 31, 2016, you selected an Essential Plan, your enrollment would properly take effect on the first day of the second following month; that is, on December 1, 2016.

Therefore, the May 12, 2016 eligibility determination notice, and the November 1, 2016 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective December 1, 2016, is correct and must be AFFIRMED.

## **Decision**

The September 19, 2016 notice of eligibility determination is AFFIRMED.

The November 1, 2016 notice of enrollment is AFFIRMED.

**Effective Date of this Decision:** February 27, 2017

## **How this Decision Affects Your Eligibility**

NYSOH properly found you not eligible to enroll in the Essential Plan effective October 31, 2016 because you did not provide documentation of your household's income.

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NYSOH properly found that your reenrollment in the Essential Plan was effective December 1, 2016.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

## **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
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- By fax: 1-855-900-5557

## **Summary**

The September 19, 2016 notice of eligibility determination is **AFFIRMED**.

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NYSOH properly found you not eligible to enroll in the Essential Plan effective October 31, 2016 because you did not provide documentation of your household's income.

The November 1, 2016 notice of enrollment is AFFIRMED.

NYSOH properly found that your reenrollment in the Essential Plan was effective December 1, 2016.

### **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

**A Copy of this Decision Has Been Provided To:**

